

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

HOWARD W. LEE, §
§
VS. § CIVIL ACTION NO.4:08-CV-174-Y
§
NATHANIEL QUARTERMAN, Director, §
T.D.C.J., Correctional §
Institutions Division, §
Respondent. §

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS
(With special instructions to the clerk of Court)

In this action brought by petitioner Howard W. Lee under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings¹ and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on December 19, 2008;
3. The respondent's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on December 22, 2008.
4. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on January 5, 2009.

The Court, after **de novo** review, concludes that the Petitioner's objections must be overruled, that the Respondent's objections must be overruled, and that the magistrate judge's findings and conclusions should be adopted, such that the petition

¹The Court notes that by order of June 12, 2008, the magistrate judge granted Lee's "Leave to Amend Request with Objection in Response to Respondent Quarterman's Answer with Brief in Support," to the extent he permitted the five-page document entitled "Amended Civil Action" to be filed and docketed as Petitioner's reply to Quarterman's response to his petition. That document, however, was not file-stamped and docketed. The clerk of Court is directed to file *nunc pro tunc* effective June 12, 2008, the "Amended Civil Action" and note on the docket that it is construed as a reply to Quarterman's answer, and place a remark on the docket that this was done.

for writ of habeas corpus will be denied.²

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED.

Petitioner Howard W. Lee's petition for writ of habeas corpus under 28 U.S.C. § 2254 is DENIED.

SIGNED January 13, 2009.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

²Lee also filed a motion for summary judgment. As Lee has not stated any claims for relief for the reasons explained in the magistrate judge's report, his motion for summary judgment [docket no. 28] is DENIED.